

In the United States Patent and Trademark Office

In re the Application of:

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| William Kress Bodin |) | |
| Serial Number: 10/046,953 |) | Group: 2635 |
| Docket Number: AUS920010780US1 |) | Examiner: Vernal U. Brown |
| Filed on: 1/15/2002 |) | |
| For: "Free-space Gesture Recognition |) | |
| for Transaction Security and Command |) | |
| Processing" |) | |

RECORD OF TELEPHONE INTERVIEW UNDER 37 CFR §1.133 and §1.2

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

Applicant hereby records the subject matter of a telephone interview initiated by the Examiner on October 29, 2007, and completed today, November 8, 2007. Applicant appreciates the Examiner's attention to and assistance with the matters raised in the interview.

In the last Office Action, dependent claims which were directed towards RFID sensor types were indicated as allowable if amended to avoid dependency on rejected independent claims. The rejected independent claims recited in open-form generic sensors without being specific to which type of sensor (e.g. infrared, acoustic, RFID, etc.).

Applicant responded by amending a limitation into the independent claims where the generic type of sensor is recited to comprise RFID sensors. Applicant left in place other dependent claims which specified that the sensors can further comprise other types of sensors (e.g. infrared, acoustic, etc.), thereby implying a combination of sensor types having at least RFID sensors and another sensor type.

The Examiner contacted Applicant's Agent to initiate an interview and to propose an examiner's amendment to cancel the dependent claims drawn to other types of sensors. The

Examiner questioned whether or not the disclosure specified combinations of sensor types, and that the claims as amended might be rejected for lack of support in the disclosure.

Applicants considered the Examiner's proposal and reasoning, and believe that the proposed amendment to the claims would be unduly narrow. Upon consideration of the proposed examiner's amendment, Applicants were unable to conceive a technical reason why such sensor types should not be combinable, or why they would be mutually exclusive of each other in an embodiment. Upon review of the disclosure, Applicants found no disclosure which explicitly set forth such mutual exclusivity of sensor types.

Applicants offered to amend the disclosure to rephrase the areas which describe the sensor types as "alternate" embodiments (see paragraph 0038 for example) as "other" embodiments. Upon review of the term "alternate", Applicants agree that the formal definition is of two, and only two choices, of which only one, but not both, must be chosen. In other words, two mutually exclusive choices.

However, Applicants disclosure used the recognized informal meaning of "alternate" as synonymous with "other" or "variant". This is first indicated by describing not two but at least three "alternates" (RFID, acoustic, and passive infrared). It is also indicated by the original claim structure, which generically claimed sensors in open-form, and then set forth through open-form dependent claims specific sensor types, thereby implying multiple sensor types may be combined.

The Examiner agreed to consider the Applicants' counter proposal, but no agreement as to allowability was reached.

Applicants wish to thank the Examiner for his efforts regarding this matter, and remain open to consider other amendment proposals.

Respectfully,

/ Robert Frantz /

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